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NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ADR

C08-03136

JSW

TRUSTEES OF THE ILWU-PMA
PENSION PLAN,

Plaintiffs,

vs.

EMELDA PETERS, DOROTHY
ETHERIDGE, ROSE PETERS, and
JOYCE PETERS,

Defendants.

Case No:

COMPLAINT IN INTERPLEADER

Plaintiffs, the Trustees of the ILWU-PMA Pension Plan ("Plaintiffs"), herein set forth the
allegations of their Complaint in Interpleader pursuant to Federal Rule of Civil Procedure 22
against defendants Emelda Peters, Dorothy Etheridge, Rose Peters, and Joyce Peters
("Defendants"), for other appropriate equitable relief under Section 502(a)(3) of the Employee

1 Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. § 1132(a)(3), in the
2 form of an order instructing Plaintiffs as to whom the Survivor Pension benefits payable on
3 account of William J. Peters, Jr. from the ILWU-PMA Pension Plan ("Plan") are to be paid.
4 Plaintiffs allege as follows:

5
6 PRELIMINARY ALLEGATIONS

7 1. Plaintiffs bring this action against Defendants under ERISA Sections 502(a)(3),
8 (e), and (f), 29 U.S.C. §§ 1132(a)(3), (e), and (f), for appropriate equitable relief to enforce the
9 terms of the Plan, an ERISA-governed employee benefit plan, which permits the payment of
10 Survivor Pension benefits only to the person who qualifies as a Surviving Spouse of a Pensioner,
11 as those terms are defined in the Plan. Jurisdiction is predicated under these code sections as well
12 as 28 U.S.C. § 1331 because this action involves a federal question.

13 2. Venue is proper in this District because the Plan is administered within the District
14 and because one or more Defendants can be found within this District. 28 U.S.C. § 1391(b)(2)-
15 (3); 29 U.S.C. § 1132(e)(2).

16
17 PARTIES

18 3. Plaintiffs are the named fiduciaries of the Plan, as defined in Sections 3(21)(A)
19 and 402(a)(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"),
20 29 U.S.C. §§ 1002(21)(A) and 1102(a)(1).

21 4. Plaintiffs are also the administrator of the Plan, as defined in Section 3(16)(A) of
22 ERISA, 29 U.S.C. § 1002(16)(A).

23 5. The Plan is a multiemployer, defined benefit pension plan as defined in Sections
24 3(2)(A), (35) and (37)(A) of ERISA, 29 U.S.C. §§ 1002(2)(A), (35) and 37(A).

25 6. Defendant Emelda Peters is a resident of New Orleans, Louisiana and, on
26 information and belief, was married to William J. Peters on June 28, 1975. On August 19, 2007,
27 Emelda Peters filed a claim with Plaintiffs for Survivor Pension benefits stating that she was the
28 legal spouse of William J. Peters when he died on July 23, 2007.

1 Plan Office adding Defendant Rose Peters as a dependent spouse for purposes of obtaining
2 coverage under the ILWU-PMA Welfare Plan. The Form identifies Defendant Rose Peters as
3 Mr. Peter's spouse and indicated that they were married on June 17, 1967.

4 14. On or about March 17, 1969, Mr. Peters submitted a Record Change Form to the
5 Plan Office deleting Rose Peters as a dependent spouse. The Form indicates the change in marital
6 status was March 15, 1968, and that the reason for deleting Rose Peters was divorce.

7 15. On or about August 2007, the Plan Office received from Defendant Dorothy
8 Etheridge, a copy of a Judgment of Dissolution in the Marriage of William Peters, Jr. and Rose
9 Peters, which was filed in the Superior Court of California, County of Alameda, on March 31,
10 1994. The Plan does not have a copy of a marriage certificate reflecting the marriage between
11 William J. Peters, Jr. and Rose Peters.

12 16. On the 1969 Record Change Form, which deleted Rose Peters as a dependent
13 spouse, Mr. Peters added Defendant Emelda Peters as a new dependent spouse. The Form
14 indicates the change in marital status as being March 15, 1968 and that the reason for adding
15 Emelda Peters was marriage.

16 17. On or about August 5, 1986, the Plan Office received a Record Change Form from
17 Mr. Peters deleting Emelda Peters as a dependent spouse due to Legal Separation and deleting
18 Edgar C. Peters as a dependent child due to attainment of his twenty-third birthday.

19 18. The August 5, 1986 Record Change Form adds Joyce Fua as a non-related
20 dependent under the Welfare Plan. On August 14, 1986, Mr. Peters submitted another Record
21 Change Form adding Joyce Peters as a dependent spouse, indicating that the marital status change
22 took place on July 13, 1984.

23 19. On or about May 3, 1989, Mr. Peters deleted Joyce Peters as a dependent spouse
24 on a Record Change Form, indicating that the parties had separated in December 1988.

25 20. The Plan does not have a copy of a marriage certificate reflecting the marriage of
26 William J. Peters, Jr. and Joyce Peters or any documentation reflecting entry of a judgment of
27 separation or divorce between these parties.

28 21. On or about January 8, 1992, Mr. Peters submitted a Record Change Form to the
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1 Plan Office, adding Defendant Emelda Peters as a dependent spouse. He indicated on the Form
2 that she was his "spouse" by checking the appropriate box, and that the date of change in marital
3 status (marriage) was July 11, 1975.

4 22. On or about October 26, 1994, Mr. Peters submitted a Record Change Form to the
5 Plan Office, adding Defendant Dorothy Peters (nka Dorothy Etheridge) for Welfare Plan
6 purposes. Mr. Peters indicated on the Form that she was his "spouse" by checking the
7 appropriate box. Mr. Peters also wrote that the reason for adding Dorothy Peters was "marriage",
8 indicating the date of marital status change as July 15, 1994.

9 23. William J. Peters, Jr. retired on October 1, 2002 and received a monthly pension
10 benefit under the Plan from that time until his death on July 23, 2007.

11 24. On or about April 14, 2003, Mr. Peters deleted Dorothy Peters as a dependent
12 spouse on a Record Change Form, indicating that the parties had divorced.

13 25. On February 13, 2005, a Judgment of Dissolution in the Marriage of Dorothy
14 Etheridge (fka Dorothy Peters) and William Peters, Case No. H 226402-1, was entered and filed
15 in the Superior Court of California, County of Alameda. As part of the proceedings, Dorothy
16 Etheridge and William Peters entered into a Stipulation for Division of Pension Benefits and
17 Qualified Domestic Relations Order filed on March 23, 2006 ("QDRO").

18 26. Pursuant to the QDRO, the Plan Office paid Dorothy Etheridge her community
19 property portion of the monthly pension benefit payable to William J. Peters, Jr. until his death on
20 July 23, 2007. The QDRO provides further that Dorothy Etheridge is entitled to 100% of the
21 survivor pension in the event there is no eligible surviving spouse at the time of William J. Peters'
22 death, or 100% of the community property portion of the survivor benefit if there is an eligible
23 surviving spouse.

24 27. On or about February 2, 2004, Mr. Peters submitted a Record Change Form adding
25 Emelda Peters as a dependent spouse for purposes of benefits under the Welfare Plan. Mr. Peters
26 indicated on the Form that she was his "spouse" by checking the appropriate box and the date of
27 marital status change was "6/75". In accordance with the instruction on the 2004 Change Form,
28 the ILWU-PMA Welfare Plan ("Welfare Plan") Office enrolled Ms. Peters as a participant in the

1 Welfare Plan.

2 28. William J. Peters, Jr. died on July 23, 2007.

3 29. On or about August 8, 2007, George O'Dowd, Esq., counsel for Emelda Peters,
4 wrote to the Plan Office advising of Emelda Peters' intent to contest "any reward" to Dorothy
5 Etheridge. The letter indicated further that Emelda Peters and William Peters were married on
6 July 11, 1975 until the date of Mr. Peters' death.

7 30. Plan Office records conflicted with the representations set forth in Mr. O'Dowd's
8 letter, particularly with respect to the claim that she was married to William Peters on the date of
9 his death. On August 15, 2007, the Plan Office verbally advised Emelda Peters of the conflicting
10 information relating to her marriage dates, but that the Plan Office would mail an application for
11 Survivor Pension for her to complete. On August 18, 2007, the Plan Office verbally advised
12 Emelda Peters further that she could submit additional information to support her claim that she
13 was never divorced from Mr. Peters by providing written documentation from the courts where
14 she and Mr. Peters have resided since 1975 to confirm that a final divorce decree had never been
15 filed.

16 31. On or about August 23, 2007, Emelda Peters submitted an application for Survivor
17 Pension on account of her marriage to Mr. Peters and provided the Plan Office with a copy of her
18 marriage certificate. Her application, dated August 19, 2007, stated that she was legally married
19 to William Peters from June 28, 1975 until the date he died.

20 32. On or about August 30, 2007, Dorothy Etheridge submitted an application for
21 Survivor Pension on account of her marriage to Mr. Peters and provided the Plan Office with
22 copies of her marriage certificate, a Judgment of Dissolution in the Marriage of Dorothy
23 Etheridge and William Peters, the 2006 QDRO, and a Judgment of Dissolution in the Marriage
24 of William Peters and Rose Peters. Her application, dated August 27, 2007, stated that she was
25 legally married to William Peters from July 15, 1994 until February 13, 2005 when the marriage
26 was dissolved.

27 33. On September 4, 2007, the Plan Office received a document submitted by Emelda
28 Peters concerning records in the Superior Court of California, County of Alameda regarding

1 information on the Dissolution of Marriage between her and William Peters.

2 34. On September 13, 2007, the Plan Office wrote to Defendant Emelda Peters
3 explaining the provisions of the Pension Plan, specifically with respect to the Survivor Pension
4 and reiterated that the information relating to her marriage dates conflicted with records on file at
5 the Plan Office. The letter further advised Emelda Peters that the September 4, 2007
6 documentation was not acceptable in this regard and that the Plan would require written
7 confirmation from the counties where she and Mr. Peters lived and were married in order to
8 substantiate that no final divorce decree was entered.

9 35. On or about September 21 and September 26, 2007, Defendant Emelda Peters
10 provided additional information to the Plan Office as requested in support of her claim that she
11 was William J. Peters, Jr.'s true legal spouse when he died on July 23, 2007.

12 36. Paragraphs 2.051 and 2.0514 of the Plan provide that when a Plan participant dies,
13 his or her surviving spouse will receive a monthly Survivor Pension benefit for the remainder of
14 the surviving spouse's life. For purposes of qualifying for a Survivor Pension benefit, a surviving
15 spouse is defined in relevant part by the Plan as follows:

16 [A]ny person who survives a Participant who was alive and whose
17 Pension Commencement Date had not occurred as of June 30,
18 1987 if (i) such person was legally married to the Participant for a
19 continuous period of not less than 1 year as of the Participant's
20 Pension Commencement Date, (ii) such person legally married the
21 Participant within 1 year before his Pension Commencement Date
and was legally married to him for a continuous period of at least 1
year ending on or before the date of his death, or (iii) such person
was legally married to the Participant for a continuous period of
not less than 1 year as of his death, and his death occurred before
his Pension Commencement Date.

22 37. Section 1.1 of the Welfare Plan provides, in relevant part, that an Adult Survivor of a
23 Welfare Plan participant is eligible to participate in the Welfare Plan after the participant's
24 death if he or she qualifies for a pension as an eligible surviving spouse under the ILWU-
25 PMA Pension Agreement and was enrolled in the Welfare Plan as a dependent of the
26 participant at the time of the participant's death. Specifically, Section 1.1 of the Welfare Plan
27 states:

28 1.1 "Adult Survivor Pensioner" – A person who: (a) has been
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1 certified as eligible to receive and is receiving a survivor pension,
2 but not an early survivor annuity, under either one of the Pension
3 Plans or an Employer's company retirement plan when such
4 person had been the eligible surviving spouse of a Pensioner with
5 Eligibility; (b) has qualified for a pension as an eligible surviving
6 spouse under paragraph 2.0512(a) of the ILWU-PMA Pension
7 Agreement or under paragraph 3.51(b) or 3.51(c) of the ILWU-
8 PMA Watchmen Pension Plan Agreement; (c) has qualified for a
9 survivor pension as an eligible surviving spouse under paragraph
10 2.0512(b) of the ILWU-PMA Pension Agreement; or (d) has
11 qualified for a survivor pension as an eligible surviving spouse
12 under paragraph 2.512(c) of the ILWU-PMA Pension Agreement
13 or under paragraph 3.51(d) of the ILWU-PMA Watchmen Pension
14 Plan Agreement provided that the Longshoreman through whom
15 such person claims would have had Eligibility as a Pensioner had
16 his pension commencement date been on his normal retirement
17 date as those terms are defined in the applicable Pension Plan;
18 provided always that a person whose status as a surviving spouse
19 was terminated as the consequence of a remarriage may not
20 requalify as an Adult Survivor Pensioner upon termination of such
21 remarriage unless the Trustees, in their sole, absolute, and
22 unreviewable discretion, are satisfied that the remarriage was
23 annulled following the initiation of proceedings that were
24 commenced for reasons other than re-establishing such person's
25 status as an Adult Survivor Pensioner; provided, finally, a person
26 may be within the class of persons defined by this paragraph only
27 if such person is identified as a Dependent Spouse (as defined
28 hereunder) on the form provided by the Trustees for the enrollment
of dependents, as of the date of the death of the person through
whom eligibility for a survivor pension is established under the
ILWU-PMA Pension Agreement or the ILWU-PMA Watchmen
Pension Plan Agreement.

Welfare Plan, §1.1 (emphasis added). Thus, eligibility for survivor benefits under the Welfare Plan is conditioned upon receipt of survivor pension under the Pension Plan.

38. Plaintiffs have been presented with conflicting claims for payment of the same Survivor Pension benefits. Because of the conflicting information regarding the overlapping dates of marriages between William J. Peters, Jr. and the four Defendants, Plaintiffs cannot determine whether and to what extent Defendants, or any of them, are entitled to a Survivor Pension.

39. Because Emelda Peters' eligibility for survivor benefits under the terms of the Welfare Plan cannot be determined without first being found eligible for a Survivor Pension under the Pension Plan, effective September 1, 2007, the Adult Survivor benefits she had been receiving under the Welfare Plan have been suspended pending the outcome of this action.

COUNT I – OTHER APPROPRIATE EQUITABLE RELIEF
ERISA § 502(a)(3); 29 U.S.C. § 1132(a)(3)

40. Plaintiffs incorporate by reference all preceding paragraphs as though fully set forth herein.

41. The Plan provides that Survivor Pension benefits are to be paid to a Pensioner's Surviving Spouse, and that a Pensioner can have only one Surviving Spouse.

42. Defendants Emelda Peters and Dorothy Etheridge both claim to be the Surviving Spouse of William J. Peters, Jr., and, therefore, entitled to Survivor Pension benefits.

43. Based on the information presently known, Plaintiffs are unable to determine whether Emelda Peters, Dorothy Etheridge, Rose Peters, or Joyce Peters is the Surviving Spouse of William J. Peters, Jr.

44. Plaintiffs are mere stakeholders in the Survivor Pension benefits payable to the Surviving Spouse of William J. Peters, Jr. They have no interest in the Survivor Pension benefits to which Defendant Emelda Peters and Dorothy Etheridge are claiming an entitlement, and to which Joyce Peters and Rose Peters may potentially claim an entitlement. Plaintiffs also have no interest in which of the Defendants is actually entitled to the benefits.

45. Due to Defendants' competing claims for the Survivor Pension benefits payable on account of William J. Peters, Jr. and Plaintiffs' inability to determine which of the Defendants is truly the Surviving Spouse of Mr. Peters, Plaintiffs face the risk of multiple liability.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs pray for relief against Defendants as follows:

1. That the Court make a final determination and enter an Order declaring the rightful beneficiary or beneficiaries and interest thereof to the Survivor Pension benefits payable under the Plan on account of William J. Peters, Jr.;

2. That each of the Defendants be restrained by an Injunctive Order of this Court from commencing or maintaining any action against the Plaintiffs, the Pension Plan, the Welfare Plan and its trustees, the ILWU, PMA, or the Plans Office regarding entitlement to the Survivor

1 Plan and its trustees, the ILWU, PMA, or the Plans Office regarding entitlement to the Survivor
2 Pension benefits payable under the Plan on account of William J. Peters, Jr.;

3 3. That with respect to Survivor Pension benefit payments effective August 1, 2007
4 and continuing until the Court determines to whom the monthly Survivor Pension benefits should
5 rightfully be paid, the Court permit Plaintiffs to make the monthly benefit payments into the
6 Court's registry;

7 4. That the Court order Plaintiffs, the Plan, the Plan Office, the ILWU, and PMA be
8 released and discharged from any liability for their payment of the monthly benefits; and

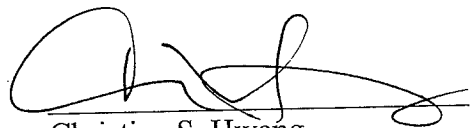
9 5. That Plaintiffs be granted such other and further relief as the Court deems
10 equitable and proper.

11
12 Respectfully submitted,

13 Dated: June 30, 2008

14 LEONARD CARDER, LLP

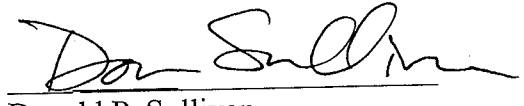
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